



CITY OF HOUSTON

Legal Department

Bill White

Mayor

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March 17, 2006

Mr. Dan Lundeen
Lundeen & Dickinson, L.L.P.
P.O. Box 131144
Houston, TX 77219-1144

United States Courts
Southern District of Texas
FILED

MAR 17 2006

Michael N. Milby, Clerk of Court

RE: Kristen Jones versus Bill White et. al; Civil Action No. H-03-2286; In the United States District Court for the Southern District of Texas, Houston Division

Dear Mr. Lundeen:

In keeping with the Court's Order of December 16, 2005, I wish to provide you and the Court the following update regarding issues pertinent to policy changes and work the City has undertaken in connection with the Spur 527 Project area which potentially impacts the issues implicated in subject lawsuit. During the course of the December 2005 hearings, the City represented to the court its commitment to three (3) general areas, e.g., construction of additional curb ramps; (2) transition of asphalt lips; and (3) further attention to the PAR request of Ms. Jones.

Regarding the curb ramps, the City had identified thirty-one (31) additional ramps which it intended to construct. To date, the work authorization for the ramps has been issued through the N-0610A-H1-3 Work Order Contract. The work is on-going and you are hereby advised that 22 of the 31 ramps have been completed with the remaining 8 scheduled for completion by the end of the current month. The specific location of these ramps, description of work, the issue and start dates, along with status information is reflected in the document attached as exhibit "A".

The City has now identified 138 locations at a total of 68 intersections within the Spur 527 Project area that it will address to smooth the transition at the edge of the overlay. The scope of work for all of the locations has been developed. The City has also provided the scope of the work to its contractor, Durwood Green, under contract N-1037-48-3. Be further advised the City has received the contractor's proposal and is currently negotiating final prices for this work. It is anticipated that the notice to commence of the work order is the first week of April 2006 with duration of approximately forty-five (45) days.

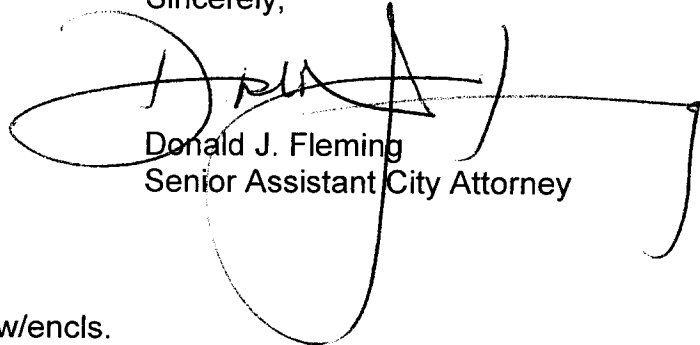
Mr. Dan Lundeen
March 17, 2006
Page 2

Regarding Ms. Jones' PAR request, City engineers have received a Preliminary Engineering Report from its contractor, Carter & Burgess, which evaluated the possible routes from Ms. Jones' home to the building at the Southeast corner of Richmond and Eastside. The contractor has forwarded its recommendations to the City's engineers. We estimate a two (2) week time frame to evaluate and instruct Carter & Burgess to start final design.

You will also find enclosed a five page document marked as Exhibit "B". This document reflects the City's policy criteria or overlay guidelines which has been recently supplemented. You may recall from the December trial testimony that the formulation of this policy was in progress. It has now been adopted.

By way of a copy of this letter, I am providing all of this information to Judge Rosenthal and Jakki Hansen, counsel for METRO. I trust that should the court or any of the parties have questions regarding the matters herein that I will be contacted accordingly. Should further developments occur which may impact the issues in this litigation, the City will honor its obligation to bring same to the attention of the court and all parties.

Sincerely,



Donald J. Fleming
Senior Assistant City Attorney

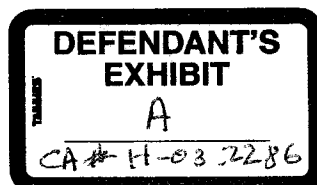
DJF/djf
enclosures as stated

Copy: Honorable Lee Rosenthal, w/encls.
United States Courthouse
515 Rusk Street
Houston, TX 77208
Via chambers

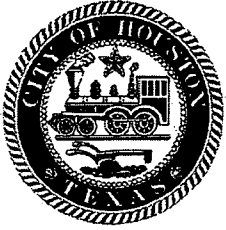
Michael Milby, w/encls. ✓
United States District Clerk
P. O. Box 61010
Houston, TX 77208-1010

Jakki Hansen, Esq., w/encls.
Metropolitan Transit Authority
P.O. Box 61429
Houston, TX 77208-1429

		Curb Cut		Council	
1	ADA	Webster @ Bagby-SE-E	493-U	I	Install Ramps
2	ADA	Webster @ Chennevert-NW-N	493-U	I	Install Ramps
3	ADA	Webster @ Crawford-NE-C	493-U	I	Install Ramps
4	ADA	Webster @ LaBranch-NE-C	493-U	I	Install Ramps
5	ADA	Webster @ Jackson-NW-C	493-U	I	Install Ramps
6	ADA	Fairview @ Brun-NE-N	492-R	D	Install Ramps
7	ADA	Fairview @ McDuffie-SE-N	492-R	D	Install Ramps
8	ADA	W.Alabama @ Yupon-NW-W	493-S	D	Install Ramps
9	ADA	W.Alabama @ Yupon-NE-N	493-S	D	Install Ramps
10	ADA	W.Alabama @ Mt. Vernon-NW-N	493-S	D	Install Ramps
11	ADA	W.Alabama @ Mt. Vernon-NW-W	493-S	D	Install Ramps
12	ADA	W.Alabama @ Mulberry-SW-W	493-S	D	Install Ramps
13	ADA	W.Alabama @ Mulberry-SW-S	493-S	D	Install Ramps
14	ADA	W.Alabama @ Mulberry- SE-C	493-S	D	Install Ramps
15	ADA	W.Alabama @ Mandel-NE-E	492-V	D	Install Ramps
16	ADA	W.Alabama @ Montrose-SW-C	493-S	D	Install Ramps
17	ADA	W.Alabama @ Yoakum-NE-N	493-S	D	Install Ramps
18	ADA	W.Alabama @ Yoakum-NW-N	493-S	D	Install Ramps
19	ADA	Westheimer @ Newman-SW-W	492-U	C	Install Ramps
20	ADA	Westheimer @ Larchmont- NE-C	492-T	G	Install Ramps
21	ADA	Westheimer @ Kingston- NE-C	492-U	G	Install Ramps
22	ADA	Westheimer @ Peckham-SE-C	492-U	C	Install Ramps
23	ADA	Westheimer @ Peckham-SW-C	492-U	C	Install Ramps
24	ADA	Westheimer @ Stanford-SE-C	493-S	D	Install Ramps
25	ADA	Westheimer @ Stanford-SW-S	493-S	D	Install Ramps
26	ADA	Westheimer @ Midlane-NW-C	491-V	G	Install Ramps
27	ADA	Westheimer @ Taft-NE-N	493-S	D	Install Ramps
28	ADA	Westheimer @ Taft-SE-C	493-S	D	Install Ramps
29	ADA	Wesheimer @ Woodhead-SW-C	492-V	D	Install Ramps
30	ADA	Wesheimer @ Woodhead-NW-C	492-V	D	Install Ramps
31	ADA	Wesheimer @ Woodhead-NE-N	492-V	D	Install Ramps



[illegible]



CITY OF HOUSTON

Public Works and Engineering
Department

Interoffice

Correspondence

To: Assistant Directors, Engineering &
Construction Division

From: Deputy Director, Engineering &
Construction

Date: March 13, 2006

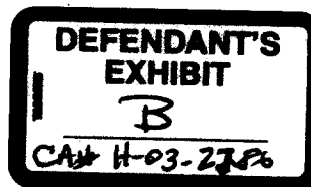
Subject: **ACCESSIBILITY EVALUATION
CRITERIA N-1037, CITYWIDE OVERLAY**

The attached document provides additional guidance to be used in conjunction with E&C Policy for Execution of N-1037 Citywide Overlay Program, dated January 27, 2005, for the evaluation of proposed work order areas for accessibility work.



Daniel W. Krueger

Cc: Mike Marcotte, P.E., DEE
Eric Dargan, ROWFM
Don Fleming, Esq, LGL
Jack Sakalosky, P.E.
Mark McClure, P.E.



CURB RAMPS ALONG OVERLAID STREETS

REFERENCE

Title II of the American Disabilities Act (ADA), and specifically 28 CFR 35.151(e):

- (1) Newly constructed or altered streets, roads, and highways must contain curb ramps or other sloped areas at any intersection having curbs or other barriers to entry from a street level pedestrian walkway.*
- (2) Newly constructed or altered street level pedestrian walkways must contain curb ramps or other sloped areas at intersections to street, roads, or highways.*

BASIS OF UNDERSTANDING

The Americans with Disabilities Act (ADA) and the applicable state and federal law standards set forth in the Americans with Disabilities Act Accessibility Guidelines (ADAAG) and the Texas Accessibility Standards (TAS) apply to newly constructed or altered streets. An alteration to a street requires that curb ramps or other sloped areas to be provided at the street level pedestrian routes, crossing the altered street(s). On streets that will be overlaid, new curb ramps that meet the requirements of ADAAG and TAS must be installed where there are barriers to entry from street level pedestrian routes within the scope of the project. While ADAAG and TAS do not address existing ramps, existing ramps along an altered street will be evaluated to determine if their condition is readily accessible and usable by individuals with disabilities who may enter from a street level pedestrian route.

CONSULTANTS RESPONSIBILITY AND EVALUATION

Streets that meet the previously identified criteria for overlay based on pavement condition will be further evaluated to determine the necessary barrier elimination and recommended pedestrian accessibility improvements. The proposed street will be evaluated by a Registered Accessibility Specialist (RAS), retained by the consultant. The RAS will be licensed by the Texas Department of Licensing and Regulation (TDLR), and possess specific knowledge of current American Disabilities Act (ADA), Americans with Disabilities Act Accessibility Guidelines (ADAAG), and Texas Accessibility Standards (TAS), as applicable to the Overlay Program. Based on streets that are approved for further overlay consideration, the RAS will evaluate the applicable street and determine the existing pedestrian street routes that cross the altered facility. The RAS will determine if there are curbs or other barriers to entry from the altered street. Accordingly, the RAS will identify and classify the curbs or other barriers as follows:

- (1) curbs/barriers that must be replaced with a curb cut with ramp, or
- (2) existing ramps that are not usable and readily accessible to individuals with disabilities and therefore must be replaced, or
- (3) existing ramps that are evaluated to be usable and do not require reconstruction or further consideration.

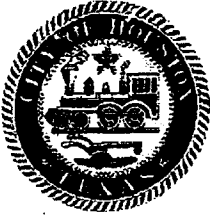
It should be noted that ADAAG/TAS is only applicable to new construction and alteration. Although, the existing curb ramps may not meet all the requirements of new construction per ADAAG/TAS, the curb ramps may still be usable by individuals with disabilities and not constitute a barrier to street level pedestrian routes. For this reason, existing curb ramps that cross the street level pedestrian route will be evaluated based on the following criteria:

Existing Curb Ramp Component	Criteria	Description
1. Clear Width	Min. 32 inches	Clear width of curb ramp in the direction of travel
2. Running slope	Max. 12.5% to 16%	Curb ramp slopes up to 12.5% are considered usable and for short distances of 2 feet. 16% is usable.
3. Cross slope	Max. 6%	Cross slope of curb ramp
4. Horizontal Faulting/Cracking	Max. 1 inch	Faulting and cracking in the horizontal
5. Change in level	Max. ¾ inch	Vertical change in level
6. Change of Grade	Max. 19%	Difference between the combined grade of two adjacent surfaces
7. Surface	Stable and firm	The surface should be stable, firm, and slip resistant.

Existing curb ramps considered under the Overlay Program that exceed the above criteria will be reconstructed in accordance with current ADA/ADAAG/TAS requirements to the maximum extent feasible.

If the consultant/RAS, in the course of field investigations and evaluations, identifies other accessibility improvements related or not specifically related to the altered roadway but that obviously poses an accessibility problem that may be easily corrected along with required work of the project, they should also report that situation and recommend potential corrective action.

This policy will be periodically reviewed and revised as required or appropriate.



CITY OF HOUSTON

Public Works and Engineering
Department

Interoffice

Correspondence

To: Assistant Directors, Engineering &
Construction Division

From: Deputy Director, Engineering &
Construction Division

Date: January 27, 2005

Subject: **POLICY FOR EXECUTION OF N-1037
CITYWIDE OVERLAY PROGRAM**

Purpose of this memorandum is to provide overall guidance for execution of our overlay program. E & C Division executes the overlay program in order to improve the traffic surface and extend the pavement life of Houston thoroughfare and collector streets. Our program objectives are to overlay streets where such treatment will effectively provide for improved ride and increased service life, and to implement the program with quality work placed in a timely manner and with minimum disruption to the public. The basic approach for program execution is for overlay work to be placed under citywide work order contracts with individual work orders scoped to include work packages for distinct geographical areas throughout the city each with a manageable amount of work.

Overlay work will be conducted to address pavement conditions, but will also address accessibility issues as part of the work order scope at the time the pavement work is accomplished. Work orders for overlay will be developed after requests have been received and/or areas have been identified through PMMP evaluation and scoring. Potential work order areas will be field evaluated to refine the work order scope based on pavement condition. Work order areas will then be coordinated with other planned work of the capital improvement program and with community interests through the district council members office. Final work order areas will be further evaluated for accessibility issues per 28 CFR 35.151 and ADAAG, as applicable. Work to construct or reconstruct curb cuts with ramps will be designed and added to the work order package. Complete work order packages will be transferred to Construction Branch for construction. Construction will report completion of the work order to Engineer Branch upon substantial or partial substantial completion of the work whichever is earlier.

Engineering Branch responsibilities for this program are:

- Provide input to Planning Branch on amount of funding to be included by year for each year of the annual CIP update.
- Contract for services of one or more engineer consultants for support of the overlay program; manage professional services by contract for consultant to accomplish the following:

Prepare contract documents for generic citywide work order overlay, with inclusion of standard unit price items for accessibility related work.

Evaluate and recommend specific areas for potential work orders

Evaluate proposed work order areas for accessibility work to include conducting evaluation by a registered accessibility specialist (RAS).

Prepare work order documents to include specified scope and estimated quantities for curb repair, milling and overlay, installation of curb cuts and ramps, and pavement marking.

Provide construction phase engineer services during construction of work orders
Conduct acceptance/post-construction inspections to include inspection by RAS.

- Prepare and let construction contracts to provide contract capability for accomplishment of needed work; accomplish lettings in coordination with CIP schedule of appropriations and so that contract prices remain valid through term of contract.
- Prepare, coordinate, and transfer work orders for execution of specific overlay packages through construction contracts.
- Maintain a system for management of requests, proposed work, coordinated work, issued work orders, and completed work orders.

Construction Branch responsibilities for this program are:

- Manage, inspect, and administer construction contracts for completion of work by work orders to specific quality requirements.
- Direct contractor's efforts with regard to scope of base repair as determined in field at conclusion of milling, and adjustment of scope of curb replacement for drainage (outside of areas designated for accessibility work).
- Coordinate acceptance inspections with Engineering Branch as well as other Department organizations as required.
- Request and coordinate for additional inspections by RAS as needed to insure work complies with ADAAG standards.
- Report completion of work orders to Engineer Branch.

Geo-Environmental Branch responsibility for this program is to support with standard material testing for the scope of work and quantities placed per standard procedures; to assist with review of geo-technical reports and pavement design if needed.

Assistant Directors may delegate authority to issue, transfer, and receive work orders to but no lower than Managing Engineers.



Daniel W. Krueger

cc: Mike Marcotte
Eric Dargan